

Amendment under 37 C.F.R. § 1.111  
U.S. Application No. 10/620,390

### **REMARKS**

Claims 1-20 are pending, of which claims 14-20 have been withdrawn from consideration. Accordingly, claims 1-13 have been examined in the current Office Action. Claims 1-13 have been rejected under 35 U.S.C. § 102(b), and claims 1, 2, 8 and 9 have been rejected under 35 U.S.C. § 102(a).

### **Preliminary Matters**

The Examiner has not acknowledged the drawings filed on July 17, 2003. Accordingly, Applicant respectfully requests the Examiner to indicate, in the next Office Action, whether such drawings are acceptable.

### **Rejections under 35 U.S.C. § 102(b) in view of U.S. Patent No. 1,029,096 to Wolf ("Wolf")**

The Examiner has rejected claims 1 and 5 under 35 U.S.C. § 102(b) as allegedly being anticipated by Wolf.

#### **A. Claim 1**

Applicant submits that claim 1 is patentable over the cited reference. For example, claim 1 recites that a partition plate is outwardly slidable along a plane that remains parallel to the

partition plate. In regard to the claimed feature, Applicant refers the Examiner to the non-limiting embodiments in Figures 3-6 of the present invention.

The Examiner maintains that Wolf discloses the claimed partition plate. In particular, the Examiner maintains that bottom b discloses the claimed partition plate (see Figure 2). However, although the alleged partition plate b can move out of the opening, it does not specifically slide along a plane that remains parallel to the plate b. Rather, the alleged partition plate b rotates along a pivotal *axis* that can go from 0° to 90°, where the pivotal axis is located at the bottom left hand corner of the box in Figure 2. Thus, it is not capable of sliding in and out of the box along the same plane as the partition plate of the present invention. As set forth in the non-limiting embodiment on pages 3 and 4 of the present Application, the specific outward movement of the partition plate enables the partition plate to be removed without entering or encroaching upon the other partitioned rooms, and as such, does not hinder the placement of any other objects in the other partitioned rooms. Thus, although the current rejection is merely an anticipation rejection, Applicant submits that the claimed feature is not merely a matter of design choice.

In view of the above, Applicant submits that claim 1 is patentable over the cited reference.

**B. Claim 5**

Applicant submits that claim 5 is patentable at least by virtue of its dependency upon claim 1.

**Rejections under 35 U.S.C. § 102(a) in view of U.S. Patent No. 6,523,693 to  
Eggenberger et al. (“Eggenberger”)**

The Examiner has rejected claims 1, 2, 8 and 9 under 35 U.S.C. § 102(a) as allegedly being anticipated by Eggenberger.

**A. Claim 1**

Applicant submits that claim 1 is patentable over the Eggenberger reference for similar reasons as Wolf. In particular, if Applicant assumes *arguendo* that the top portion 42 discloses a partition plate, and the portions 52 and 54 disclose connection portions, the reference still fails to teach or suggest that the top portion 42 (alleged partition plate) is slidable out of the carton body in a direction that remains parallel to the top portion 42. Rather, similar to the Wolf reference, the top portion 42 is moved outward by rotating along a pivotal axis where portion 54 meets the side wall 28 (Fig. 2). Thus, Applicant submits that Eggenberger fails to anticipate claim 1.

**B. Claim 2**

Since claim 2 is dependent upon claim 1, Applicant submits that such claim is patentable at least by virtue of its dependency.

**C. Claim 8**

Since claim 8 contains features that are analogous to the features recited in claim 1, Applicant submits that claim 8 is patentable for at least analogous reasons as claim 1.

**D. Claim 9**

Applicant submits that claim 9 is patentable at least by virtue of its dependency upon claim 8.

**Rejections under 35 U.S.C. § 102(b) in view of U.S. Patent No. 4,438,848 to Montealegre et al. (“Montealegre”)**

The Examiner has rejected claims 1, 2, 5, 6, 8, 9, 12 and 13 under 35 U.S.C. § 102(b) as allegedly being anticipated by Montealegre.

**A. Claims 1 and 8**

Applicant submits that claims 1 and 8 are patentable over the Montealegre reference for similar reasons as Wolf. In particular, if Applicant assumes *arguendo* that the lower panel 36 discloses a partition plate, and the panels 32 and 34 disclose connection portions, the reference still fails to teach or suggest that the lower panel 36 (alleged partition plate) is slidable out of the carton body in a direction that remains parallel to the lower panel 36. Rather, similar to the Wolf

reference, the lower panel 36 is moved outward by unfolding and rotating the panels outward (Figs. 4 and 5). Thus, Applicant submits that Montealegre fails to anticipate claims 1 and 8.

**B. Claims 2, 5, 6, 9, 12 and 13**

Applicant submits that claims 2, 5, 6, 9, 12 and 13 are patentable at least by virtue of their dependency upon claim 1 or claim 8.

**Rejections under 35 U.S.C. § 102(b) in view of U.S. Patent No. 4,957,237 to  
Madonna et al. (“Madonna”)**

The Examiner has rejected claims 1, 2, 5, 6, 8, 9, 12 and 13 under 35 U.S.C. § 102(b) as allegedly being anticipated by Madonna.

**A. Claims 1 and 8**

Applicant submits that claims 1 and 8 are patentable over the Madonna reference for similar reasons as Wolf. In particular, if Applicant assumes *arguendo* that the platform 7 discloses a partition plate, and the panel 9 and the portion between panel 9 and panel 3a disclose connection portions, the reference still fails to teach or suggest that the platform 7 (alleged partition plate) is slidable out of the carton body in a direction that remains parallel to the platform 7. Rather, similar to the Wolf reference, the platform 7 is moved outward by rotating

the platform 7 along a pivotal axis at panel 9 (Figs. 1 and 7). Thus, Applicant submits that Madonna fails to anticipate claims 1 and 8.

**B. Claims 2, 5, 6, 9, 12 and 13**

Applicant submits that claims 2, 5, 6, 9, 12 and 13 are patentable at least by virtue of their dependency upon claim 1 or claim 8.

**Rejections under 35 U.S.C. § 102(b) in view of U.S. Patent No. 5,096,055 to Oppen**  
**(“Oppen”)**

The Examiner has rejected claims 1-13 under 35 U.S.C. § 102(b) as allegedly being anticipated by Oppen.

**A. Claims 1 and 8**

Applicant submits that claims 1 and 8 are patentable over the Oppen reference for similar reasons as Wolf. In particular, if Applicant assumes *arguendo* that the panels 34 and 36 disclose a partition plate, and the panels 26 and 32 disclose connection portions, the reference still fails to teach or suggest that the panels 34 and 36 (alleged partition plate) are slidable out of the carton body in a direction that remains parallel to the panels 34 and 36. Rather, similar to the Wolf reference, the panels 34 and 36 are moved outward by rotating the panels along a pivotal axis at

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near panel 40 (Figs. 5 and 6). Thus, Applicant submits that Opper fails to anticipate claims 1 and 8.

**B. Claims 2-7 and 9-13**


Applicant submits that claims 2-7 and 9-13 are patentable at least by virtue of their dependency upon claim 1 or claim 8.

**Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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